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FEB 22 2005

LUTHER D. THOMAS, Clerk  
By: *[Signature]*  
Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**TONY L. WARE, CEO and  
T. L. WARE BOTTLING  
COMPANY, INC.**

**Plaintiffs,**

**v.**

**FLEETBOSTON FINANCIAL  
CORP.,  
f/k/a BANKBOSTON CORP.,**

**Defendant.**

**Civil Action**

**File No. 1:05-CV-0426MHS**

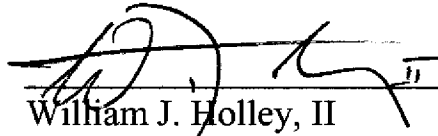
**NOTICE OF FILING ORIGINAL  
AFFIDAVIT OF WILLIAM J. HOLLEY, II**

Defendant FleetBoston Financial Corporation hereby gives notice of filing the original of the February 21, 2005 affidavit of William J. Holley, II. FleetBoston Financial Corporation files this notice by special appearance while preserving all defenses and objections, including but not limited to, lack of personal jurisdiction and insufficient service of process.

Respectfully submitted,

**PARKER, HUDSON, RAINER & DOBBS LLP**

By:

A handwritten signature in black ink, appearing to read "W. J. Holley, II", is written over a horizontal line.

William J. Holley, II

Georgia Bar No. 362310

Nancy H. Baughan

Georgia Bar No. 042575

Michael D. Grider

Georgia Bar No. 310473

1500 Marquis Two Tower  
285 Peachtree Center Avenue, N.E.  
Atlanta, Georgia 30303  
(404)523-5300 (telephone)  
(404)420-5549 (facsimile)

Attorneys for FleetBoston Financial Corporation

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

TONY L. WARE, CEO and	)	
T. L. WARE BOTTLING COMPANY,	)	
INC.	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action
	)	File No. 1:05-CV-0426MHS
FLEETBOSTON FINANCIAL CORP.,	)	
f/k/a BANKBOSTON CORP.,	)	
	)	
Defendant.	)	
	)	
	)	

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AFFIDAVIT OF WILLIAM J. HOLLEY, II

William J. Holley, II, after being duly sworn, states and deposes:

1.

I am over 18 years of age and am otherwise competent to give this affidavit which I make on personal knowledge.

2.

I am a partner in the law firm Parker Hudson Rainer & Dobbs LLP and my business address is 1500 Marquis Two Tower, 285 Peachtree Center, Ave., N.E., Atlanta, Georgia 30303. I am admitted to practice before this Court, before the Supreme Court of Georgia, and before numerous other courts in the United States.

3.

On February 8, 2005 my firm was retained to represent FleetBoston Financial Corporation, the named defendant in this action. At the time my firm was retained, we were provided with a copy of Judge Brogdon's January 28, 2005 Order and Judge Lane's February 2, 2005 Order vacating Judge Brogdon's Order.

4.

On February 8, 2005 I directed a paralegal to travel to the Clerk's office for the Superior Court of Fulton County and retrieve all information contained in the Clerk's file. During the afternoon of February 8, 2005 the paralegal returned to my office with the file and shortly thereafter I first saw a copy of the initial pleading in this case and sent it to the corporate counsel who had retained my firm.

5.

On Thursday, February 10, 2005 I confirmed with a representative from the Georgia Secretary of State's Office that the Georgia Secretary of State does not attempt to make any service on withdrawn corporations. Instead, the Georgia Secretary of State relies on plaintiffs to make actual service of complaints.

FURTHER AFFIANT SAYETH NOT.

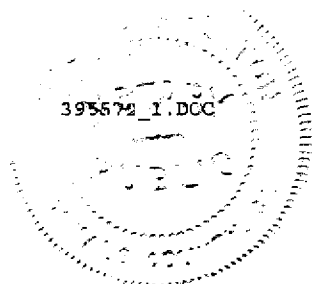
  
\_\_\_\_\_  
William J. Holley, II

Sworn to and subscribed  
before me this 21<sup>st</sup> day  
of February, 2005.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:  
Notary Public, DeKalb County, Georgia  
My Commission Expires March 12, 2007

\_\_\_\_\_  
(AFFIX NOTARIAL SEAL)



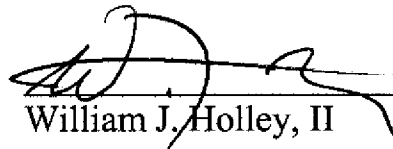
**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the within and foregoing **NOTICE OF FILING ORIGINAL AFFIDAVIT OF WILLIAM J. HOLLEY, II** upon all parties to this matter by causing to be deposited in the U.S. Mail, proper postage prepaid, a true copy of same addressed as follows:

Michael R. Johnson, Sr. (also served via courier)  
Johnson & Associates, P.C.  
340 West Peachtree Street, N.E.  
Suite 200  
Atlanta, Georgia 30308

Dr. Tony L. Ware, PhD, JD  
Post Office Box 150524 - Dept. 0227  
Atlanta, Georgia 30315

This 22<sup>nd</sup> day of February, 2005.

  
William J. Holley, II